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DELTA DEMOCRAT TIMES

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IN THE CIRCUIT COURT OF WASHINGTON COUNTY, MISSISSIPPI

JAMES W. LOWE

PETITIONER

V.

CAUSE NO. 2009-0043 CJ

DEMOCRATIC MUNICIPAL EXECUTIVE
COMMITTEE OF THE CITY OF LELAND, MISSISSIPPI

DEFENDANT

Washington County Clerk
D.C.

**PETITION FOR JUDICIAL REVIEW OF DECISION OF
THE DEMOCRATIC MUNICIPAL EXECUTIVE COMMITTEE
OF THE CITY OF LELAND, MISSISSIPPI**

COMES NOW James W. Lowe, Petitioner herein, pursuant to Miss. Code Ann. §23-15-861(4), by and through the undersigned counsel, and files his Petition for Judicial Review of the Decision of the Democratic Municipal Executive Committee of the City of Leland, Mississippi denying certification to Petitioner as a candidate for the Democratic nomination for the position of Mayor of the City of Leland, Mississippi. In support of this petition, Petitioner states as follows:

1. Petitioner is a bona fide adult resident citizen of the City of Leland, Washington County, Mississippi, whose address is 126 Robb Street, Leland, MS 38756.
2. Defendant is a municipal executive committee established pursuant to Mississippi law, and may be served with process by serving its Chairman, Danny Caldwell, 102 O'Quinn Street, Leland, Mississippi. This Court has subject matter jurisdiction of this action pursuant to Miss. Code Ann. §23-15-861(4), which provides for judicial review by this Court of Defendant's actions.
3. This Court has personal jurisdiction over the parties, and venue is proper in the Circuit Court of Washington County, Mississippi.
4. Petitioner is a qualified elector of the City of Leland, Mississippi. He meets all of the qualifications for the Office of Mayor for the City of Leland, Mississippi. He has



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9. At the close of the testimony, the Committee was presented with a Mississippi Attorney General's Opinion which addressed the impropriety of an Executive Committee's refusal to place a candidate's name on a ballot because of alleged disloyalty.

10. Chairman Caldwell then adjourned the meeting, stating that the Executive Committee would have to investigate the matter further and obtain more information before reaching a decision on Petitioner's certification. Petitioner is unaware what additional investigation occurred, or what additional information was obtained but, in any event, any such additional "fact-finding" occurring outside of the hearing would have been improper.

11. On Wednesday, March 18, 2009, Petitioner received a letter from Defendant, dated March 17, 2009, again signed by Chairman Caldwell. This letter, a copy of which is attached as Exhibit "2", advised Petitioner that his certification had been challenged "based on claims that [he] violated the Democratic Constitution of the State of Mississippi by serving on the Leland Republican Municipal Executive Committee and supporting the Republican Party." The letter further advised Petitioner that the Committee, none of whom were ever identified, had voted unanimously to deny his certification to be a Democratic candidate for mayor.

12. This action by Defendant is a clear violation of Mississippi law. Under Mississippi's Election Code, a party Executive Committee is authorized to make *only* the following determinations regarding whether a candidate should be placed on the ballot for a primary election:

- a. whether he is a qualified elector of the state;
- b. whether he meets all other qualifications to hold the office (or has presented absolute proof that he will, subject to no contingencies, meet all qualifications on or before the date of the election); and

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- c. whether he has been convicted of any felony in a court of this state, or of any offense in another state which is a felony under the laws of this state, or whether he has been convicted of any felony in a federal court.

Miss. Code Ann. §23-15-299(7).

13. Defendant had no authority under Mississippi law to impose any additional "qualifications" for Petitioner's candidacy. Two Mississippi Attorney General's Opinions, *Hemphill*, January 16, 2003, Opinion No. 2003-0015 and *Nicholson*, January 29, 2007, Opinion No. 2006-00652, expressly note that an executive committee cannot refuse to place an otherwise qualified candidate on a ballot because he has supported another party in the past. To do so would be contrary to both Mississippi law and the Mississippi Constitution. This is the case regardless of any provisions of a party's Constitution or other rules.

14. Further, the actions of the Letend Democratic Municipal Executive Committee in attempting to add a "party loyalty" component to the certification process constitutes a change in the law or practice regarding elections, which would not only have to have been enacted by the Mississippi Legislature but would also have to be pre-cleared by the United States Department of Justice pursuant to the provisions of the Voting Rights Act before it could be lawfully enforced. Neither of these events have occurred and, accordingly, Defendant's actions must be reversed for this separate reason.

15. Finally, the actions of Defendant in holding a "hearing" on the challenge to Petitioner's candidacy in Executive Session, and taking secret testimony, clearly violates Mississippi's Open Meetings law, and any action taken in this improper meeting were null and void.

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March 11, 2009

Leland Democratic Municipal
Executive Committee
Leland, MS 38756

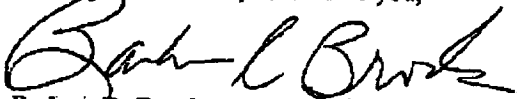
Dear Committee Members:

I have filed a qualifying statement of intent as a Democrat for the position of Mayor of the City of Leland. I have been a loyal democrat acting in accordance with the rules of the Democratic Party of Mississippi as set forth in the said Constitution and Bylaws.

This letter is written to inform you and to request that the Democratic Municipal Executive Committee deny the certification of James W. Lowe as a democratic candidate for Mayor for the May 5, 2009 party primary. This denial request is based on the attached copy of recorded documents which includes the Qualifying Statement of Intent for Republican Municipal Executive Committee and the Minutes from the meeting on February 20, 2005. As you can see, Mr. Lowe is a republican serving on the Leland Municipal Republican Executive Committee during the last four years. These documents and the required \$10 filing fees verifies that Mr. Lowe have publicly and financially supported the Republican Party and/or the election to office of any person not running as a Democrat. (See Attached)

This is without a doubt a violation of the Democratic Party State Constitution; and according to the Constitution, Mr. Lowe should not be certified as a Democratic candidate for the position requested.

As a loyal Democrat, I submit to you,



Barbara R. Brooks
Attachments

Approved Tax

Mar 26 2009 11:45AM

Tax Station

GRIFFIN & ASSOCIATES

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QUALIFYING STATEMENT OF INTENT FOR REPUBLICAN MUNICIPAL EXECUTIVE COMMITTEE

I, James W. Lowe
(Name, as it will appear on the ballot)

115 Tucker St
(Mailing Address)

Leland 115 Tucker St
(Street address)

Leland MS 38756
(City) (State) (Zip code)

662-686-4868 jameswlowe@bellsouth.net
(Work telephone) (Home telephone) (Email Address)

a qualified elector of the municipality of Leland

State of Mississippi, do hereby declare my candidacy for the Republican Party for
nomination for the office of Executive Committee Member at the primary election
scheduled to be held on May 3, 2005.

I hereby certify that: (mark as applicable)

☒ I have never been convicted of a crime punishable by confinement in
the Penitentiary.

☒ I have never been convicted of a felony in federal court, or of a
felony in the court of another state, as provided in Section 44 of the
Mississippi Constitution.

☒ I meet all constitutional, statutory and other legal requirements to
hold said office.

James W. Lowe 03-04-05
(Signature of candidate) (Date)

Received by [Signature] [Signature] 3-4-05
(Signature) (Title) (Date)

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Minutes From Meeting on February 20, 2005 of the Executive Committee of Leland, MS.

Present were as follows:

Perrin Grissom, Jr.
Richard Cousino
Trudy Tubertini
Amy Taylor (absent- out of town)
Charles Lillo (absent)

Meeting Purpose: To Elect New Members to the Committee

Minutes: Perrin Grissom, Jr. resigned today because of duties of the Election Commission. New members were elected to take the place of members who have stepped down from their duties on this committee.
Newly elected Members as follows:

Bart Freeland
Don Hubbard
James Lowe

Minutes recorded by Trudy Tubertini, Secretary
Date: February 20, 2005

Trudy Tubertini 2/20/05

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Leland Democratic Municipal Executive Committee
Leland, MS 38756

March 13, 2009

Mr. James Lowe
126 Robb Street
Leland, MS 38756

Dear Mr. Lowe:

The Leland Democratic Municipal Executive Committee received a petition on March 11, 2009 challenging your certification for Mayor for the May 5th, 2009 Democratic primary election. A hearing has been scheduled on this petition for Monday, March 16, 2009 at 4:00 pm at the Leland City Hall 2nd Floor. We ask that you be present for this hearing.

Respectively,

Danny Caldwell
Darry Caldwell
Chairman

EXHIBIT

1

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Leland Democratic Municipal Executive Committee
Leland, MS

March 17, 2009

Mr. James Lowe
126 Robb Street
Leland, MS 38756

Dear Mr. Lowe:

The Leland Democratic Municipal Executive Committee received a petition challenging your certification as a democratic candidate for Mayor in the Leland Democratic Primary schedule for May 5, 2009. The challenge was based on claims that you violated the Democratic Constitution of the State of Mississippi by serving on the Leland Republican Municipal Executive Committee and supporting the Republican Party. After reviewing the evidence and having a hearing with you, the committee unanimously voted to deny your certification to be a Democratic candidate for mayor.

Respectively,


Danny Caldwell, Chairman

EXHIBIT

2

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Book Signing Sat. March 28 HOBNOB GALLERY

345 North Main Street
Leland, MS - 662-686-0110

Delta native's memoir offers inside look at Delta School Desegregation

The experience of a young college graduate who helped pioneer school desegregation in Leland in 1969 will be released March 1, 2009 by University of Alabama Press.

Greenville native David Beckwith's memoir, "A New Day in the Delta," concentrates on his experience as a young college graduate who helped pioneer the 1969 school desegregation in Leland. As the Vietnam War was reaching its zenith, Beckwith graduated from the University of Mississippi and was accepted for a teaching position with the Leland Public Schools despite his total lack of credentials. Only later did he learn that he had been assigned to Lincoln Attendance Center, an all-black school, just as Mississippi's "separate but equal" school system was being mandated to end.

War and evolving racial relations were transforming the nation and Mississippi alike. Beckwith found himself on the cutting edge of the transformation of American education and society in one of the most resistant corners of the country. Beckwith's memoir tells the revealing and often amusing story of the year of incomprehension between an inexperienced

white teacher and a classroom of black children who had had minimal contact with any whites. This is history as those who were thrust into another sort of "front line" experienced it.

"The key to this story is the fact that Beckwith is one of the first white teachers to be assigned to an all-black school in the Mississippi Delta. Beckwith's detailed account of his experience will be valuable to the history of this time," said Dr. Andrew Mullins, Assistant to the Chancellor at Ole Miss. "A New Day in the Delta" makes a significant and interesting contribution to the history of desegregation in Mississippi's public education system."

"The book is a fascinating combination of Happy Days meets Blackboard Jungle, with more than a little Mississippi. The Closed Society added," according to Delta Magazine Contributing Editor Noel Workman. "The well intentioned rookie often trod where angels feared to go."

Beckwith has spent most of his working career in the securities industry and is currently a Vice President and Financial Advisor with Morgan Stanley. He lives in Vero Beach and Little Torch Key, FL.

experiencing layoffs or those who have lost thousands of employees nationwide but Leland Manufacturing.

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Dear Sir/Madam:

Due to the fact that I am a candidate for the office of Mayor of the City of Leland, I feel that it would be appropriate to resign my position as a member of the Leland Republican Party executive committee effective immediately.

Politically yours,
/s/ James W. Lowe, Sr.

\$1 each

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excited. Then the back would come driving by you. It would drive take a few good drive months. Anybody who